

REMARKS

In the outstanding Final Office Action, claim 43 was objected to because of certain informalities and rejected under 35 U.S.C. § 112. In addition, claims 43-45, 47, 49-51, 53-54, 75-79, and 81-82 were rejected under 35 U.S.C. § 102(b) and claims 46, 48, 55, 56-58, 80, and 83 were rejected under 35 U.S.C. § 103(a).

Claims 43, 45-46, 51, 56, 75, 79, 81, and 83 have been amended. Claims 1-42 and 59-74 were previously cancelled. Thus, claims 43-58 and 75-83 are currently pending in the instant application.

Interview

Applicant thanks the Examiner for the telephonic conference on Thursday, October 12, 2006.

During the interview, the claim informality objections and § 112 rejections were discussed. In addition, the differences between the pending claims and the Palmer reference were also discussed. The claim amendments and remarks herein reflect those discussions.

Objections

Claim 43 was objected to for certain informalities.

It was requested that the colon after the word “images” in claim 43 be replaced with a semicolon. Claim 1 has thus been amended to effect this replacement.

In addition, it was asserted that claim 43 does not make any sense. That is, it was asserted that the phrase “ . . . the stored images, associates with the new image . . . ” does not make any sense, and it was suggested that the word “associates” be replaced with the term “associating.” Applicants respectfully disagree and note that the original, un-amended claim language, when read correctly with the commas, states that “upon receipt of a new image, the microprocessor *compares* the new image to the stored images and . . . *associates* with the new image the stored text associated with the identified stored images.” (emphasis added) The additional limitation “when a predetermined level of similarity is identified between the new image and one of the stored images” was included in the above language and offset with commas.

However, in the interest of moving the case toward allowance, the claim has been amended to eliminate the intervening additional limitation.

Thus, there are no further informalities with respect to claim 43. Reconsideration and withdrawal of the objections is respectfully requested.

§ 112 Rejections

Claim 43 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, it was asserted that the phrase “level of similarity” is vague and unclear. Applicant respectfully disagrees.

Claim 43, as amended, particularly points out and distinctly claims the subject matter that Applicant regards as the invention. Claim 43, as amended, is directed to a device comprising, in part, a microprocessor “wherein, upon receipt of a new image, the microprocessor compares the new image to the stored images and associates with the new image the stored text associated with the one of the stored images that is most similar to the new image.” Support for this amendment can be found in the application as filed at pg. 14, ll. 10-17, pg. 35, l. 12 – pg. 36, l. 6, and in the claims as filed in the original parent application (U.S. Application 09/860,728). Thus, claim 43 is not indefinite. Reconsideration and withdrawal of the rejection is respectfully requested.

§ 102(b) Rejections

Claims 43-45, 47, 49-51, 53-54, 75-79 and 81-82 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 6,002,798 (“Palmer”). Applicant respectfully disagrees.

Independent Claim 43 Is Not Anticipated by Palmer

Claim 43 is directed to a device comprising, in part, a library of stored images and a library of stored texts, “wherein, upon receipt of a new image, the microprocessor compares the new image to the stored images and associates with the new image the stored text associated with the one of the stored images that is most similar to the new image.”

Palmer does not teach or suggest the invention of claim 43. More specifically, Palmer does not teach or suggest a microprocessor that compares a new image to stored images and associates with the new image any stored text associated with the one of the stored images that is most similar to the new image. Instead, the system in Palmer simply allows for scanning a document, obtaining structural information, identifying the document type, correlating related regions within the document itself, OCR processing designated regions of the document in preparation for creating a retrieval index for the document, indexing the ASCII text characters obtained from the OCR processing, storing the structural information obtained in the second

step, and storing the document image. *See Palmer*, col. 5, l. 49 – col. 7, l. 53 and Fig. 4. That is, Palmer simply provides for scanning, processing, and storing an image. Nowhere does Palmer teach or suggest associating stored text with a new image.

It is asserted in the Office Action that Palmer discloses associating stored text with a new image at col. 6, lines 33-37. However, that passage, like the rest of the Palmer reference, does not teach or suggest associating stored text with a new image. Instead, the passage simply discloses assignment of a document type to the new image.

Thus, Palmer fails to teach or suggest a microprocessor that compares a new image to stored images and associates with the new image any stored text associated with the one of the stored images that is most similar to the new image. As such, claim 43 is not anticipated by Palmer. Reconsideration and withdrawal of the rejection is respectfully requested.

Independent Claim 47 Is Not Anticipated by Palmer

Claim 47 is directed to a device comprising, in part, a library of stored images, a library of stored texts, and a microprocessor, “wherein, upon receipt of a new image, the microprocessor compares the new image to the stored images, and, based on the comparison, associates one or more portions of one or more of the stored texts with the new image.”

Palmer does not teach or suggest the invention of claim 47. More specifically, Palmer does not teach or suggest a microprocessor that compares a new image to stored images and, based on the comparison, associates one or more portions of one or more of the stored texts with the new image. Instead, as discussed above, the system in Palmer simply provides for scanning, processing, and storing an image. *See Palmer*, col. 5, l. 49 – col. 7, l. 53 and Fig. 4. Nowhere does Palmer teach or suggest associating one or more portions of one or more stored texts with a new image.

Thus, Palmer fails to teach or suggest claim 47. As such, claim 47 is not anticipated by Palmer. Reconsideration and withdrawal of the rejection is respectfully requested.

Independent Claim 51 Is Not Anticipated by Palmer

Claim 51 is directed to a apparatus comprising, in part, means for storing a plurality of images and a plurality of texts, means for comparing a new image to the stored images, and “means for creating a record by associating with the new image the stored text associated with the identified stored image.”

Palmer does not teach or suggest the invention of claim 51. More specifically, Palmer does not teach or suggest means for creating a record by associating with the new image the stored text associated with the identified stored image. Instead, as discussed above, the system in Palmer simply provides for scanning, processing, and storing an image. *See Palmer*, col. 5, l. 49 – col. 7, l. 53 and Fig. 4. Nowhere does Palmer teach or suggest associating stored text with a new image.

Thus, Palmer fails to teach or suggest claim 51. As such, claim 51 is not anticipated by Palmer. Reconsideration and withdrawal of the rejection is respectfully requested.

Independent Claim 56 Is Not Anticipated by Palmer

Claim 56 is directed to a method comprising, in part, “comparing [a] library digital image and [an] outside digital image, wherein the text description associated with the library digital image most similar to the outside digital image is selected to become associated with the outside digital image to form a medical record.”

Palmer does not teach or suggest the invention of claim 56. More specifically, Palmer does not teach or suggest comparing a library digital image and an outside digital image, wherein the text description associated with the library digital image most similar to the outside digital image is selected to become associated with the outside digital image to form a medical record. Instead, as discussed above, the system in Palmer simply provides for scanning, processing, and storing an image. *See Palmer*, col. 5, l. 49 – col. 7, l. 53 and Fig. 4. Nowhere does Palmer teach or suggest selecting a text description to become associated with an outside digital image.

Thus, Palmer fails to teach or suggest claim 56. As such, claim 56 is not anticipated by Palmer. Reconsideration and withdrawal of the rejection is respectfully requested.

Independent Claim 75 Is Not Anticipated by Palmer

Claim 75 is directed to a method comprising, in part, “comparing [an] outside image to . . . groups of library images, selecting an image or group of images from the library images that are most similar to the outside image, selecting the library text corresponding to the portion of the procedure corresponding with the selected library image, and storing the selected library text with the outside image to create a record.”

Palmer does not teach or suggest the invention of claim 75. More specifically, Palmer does not teach or suggest comparing an outside image to groups of library images, selecting an image or group of images from the library images that are most similar to the outside image,

selecting the library text corresponding to the portion of the procedure corresponding with the selected library image, and storing the selected library text with the outside image to create a record. Instead, as discussed above, the system in Palmer simply provides for scanning, processing, and storing an image. *See Palmer*, col. 5, l. 49 – col. 7, l. 53 and Fig. 4. Nowhere does Palmer teach or suggest selecting a library text corresponding to the portion of the procedure corresponding with the selected library image and storing the selected library text with the outside image to create a record.

Thus, Palmer fails to teach or suggest claim 75. As such, claim 75 is not anticipated by Palmer. Reconsideration and withdrawal of the rejection is respectfully requested.

Independent Claim 81 Is Not Anticipated by Palmer

Claim 81 is directed to a method comprising, in part, “comparing [a] new image to . . . stored images using digital image recognition to identify the one or more stored images that are most similar to the new image, and when the most similar one or more stored images are identified, associating with the new image the stored text associated with the identified stored image.”

Palmer does not teach or suggest the invention of claim 81. More specifically, Palmer does not teach or suggest comparing a new image to stored images using digital image recognition to identify the one or more stored images that are most similar to the new image, and when the most similar one or more stored images are identified, associating with the new image the stored text associated with the identified stored image. Instead, as discussed above, the system in Palmer simply provides for scanning, processing, and storing an image. *See Palmer*, col. 5, l. 49 – col. 7, l. 53 and Fig. 4. Nowhere does Palmer teach or suggest associating stored text with a new image.

Thus, Palmer fails to teach or suggest claim 81. As such, claim 81 is not anticipated by Palmer. Reconsideration and withdrawal of the rejection is respectfully requested.

Claims Depending from the Above Independent Claims Are Patentable

Because claims 44-46, 48-50, 52-55, 57-58, 76-80, and 82-83 depend directly or indirectly from one of the above independent claims and incorporate all the limitations of those claims, the above arguments obviate the bases for these grounds of rejection. Thus, claims 44-46, 48-50, 52-55, 57-58, 76-80, and 82-83 are not anticipated by Palmer. Reconsideration and withdrawal of the rejections are respectfully requested.

§ 103(a) Rejections

Claim 46, 48, 55, 56-58, 80 and 83 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Palmer in view of U.S. Patent 6,529,617 (“Prokoski”). Applicant respectfully disagrees.

Independent Claim 43 Is Not Unpatentable Over Palmer in View of Prokoski

As discussed above, claim 43 is directed to a device comprising, in part, a library of stored images and a library of stored texts, “wherein, upon receipt of a new image, the microprocessor compares the new image to the stored images and associates with the new image the stored text associated with the one of the stored images that is most similar to the new image.”

As also discussed above, Palmer does not teach or suggest the invention of claim 43. Instead, the system in Palmer simply provides for scanning, processing, and storing an image. *See Palmer*, col. 5, l. 49 – col. 7, l. 53 and Fig. 4. Nowhere does Palmer teach or suggest associating stored text with a new image.

Prokoski fails to remedy the deficiencies of Palmer. That is, Prokoski fails to teach or suggest a microprocessor that compares the new image to the stored images and associates with the new image the stored text associated with the one of the stored images that is most similar to the new image. Instead, Prokoski discloses an imaging device that produces “a first signal representative of sensed characteristics of [an] individual and a minutiae generator which receives the first signal and produces a second signal representative of minutiae of the individual,” and subsequently produces “a third signal representative of the characteristics which is stored in a minutiae database for each of the plurality of known individuals.” *See Prokoski*, Abstract. Nowhere does Prokoski teach or suggest associating stored text with a new image.

As such, the combination of Palmer and Prokoski fails to teach or suggest the invention of claim 43. That is, the combination does not teach or suggest associating stored text with a new image.

Thus, neither Palmer nor Prokoski, alone or in combination, teach or suggest the invention of claim 43.

Independent Claim 47 Is Not Unpatentable Over Palmer in View of Prokoski

As discussed above, claim 47 is directed to a device comprising, in part, a library of stored images, a library of stored texts, and a microprocessor, “wherein, upon receipt of a new

image, the microprocessor compares the new image to the stored images, and, based on the comparison, associates one or more portions of one or more of the stored texts with the new image.”

As also discussed above, Palmer does not teach or suggest the invention of claim 47. Instead, the system in Palmer simply provides for scanning, processing, and storing an image. *See Palmer*, col. 5, l. 49 – col. 7, l. 53 and Fig. 4. Nowhere does Palmer teach or suggest associating one or more portions of one or more stored texts with a new image.

Prokoski fails to remedy the deficiencies of Palmer. That is, Prokoski fails to teach or suggest a microprocessor that compares the new image to the stored images, and, based on the comparison, associates one or more portions of one or more of the stored texts with the new image. Instead, as discussed above, Prokoski discloses an imaging device that produces “a first signal representative of sensed characteristics of [an] individual and a minutiae generator which receives the first signal and produces a second signal representative of minutiae of the individual,” and subsequently produces “a third signal representative of the characteristics which is stored in a minutiae database for each of the plurality of known individuals.” *See Prokoski*, Abstract. Nowhere does Prokoski teach or suggest associating one or more portions of one or more stored texts with a new image.

As such, the combination of Palmer and Prokoski fails to teach or suggest the invention of claim 47. That is, the combination does not teach or suggest associating one or more portions of one or more stored texts with a new image.

Thus, neither Palmer nor Prokoski, alone or in combination, teach or suggest the invention of claim 47.

Independent Claim 51 Is Not Unpatentable Over Palmer in View of Prokoski

As discussed above, claim 51 is directed to a apparatus comprising, in part, means for storing a plurality of images and a plurality of texts, means for comparing a new image to the stored images, and “means for creating a record by associating with the new image the stored text associated with the identified stored image.”

As also discussed above, Palmer does not teach or suggest the invention of claim 51. Instead, the system in Palmer simply provides for scanning, processing, and storing an image. *See Palmer*, col. 5, l. 49 – col. 7, l. 53 and Fig. 4. Nowhere does Palmer teach or suggest associating stored text with a new image.

Prokoski fails to remedy the deficiencies of Palmer. That is, Prokoski fails to teach or suggest means for creating a record by associating with the new image the stored text associated with the identified stored image. Instead, as discussed above, Prokoski discloses an imaging device that produces “a first signal representative of sensed characteristics of [an] individual and a minutiae generator which receives the first signal and produces a second signal representative of minutiae of the individual,” and subsequently produces “a third signal representative of the characteristics which is stored in a minutiae database for each of the plurality of known individuals.” *See Prokoski*, Abstract. Nowhere does Prokoski teach or suggest associating stored text with a new image.

As such, the combination of Palmer and Prokoski fails to teach or suggest the invention of claim 51. That is, the combination does not teach or suggest associating stored text with a new image.

Thus, neither Palmer nor Prokoski, alone or in combination, teach or suggest the invention of claim 51.

Independent Claim 56 Is Not Unpatentable Over Palmer in View of Prokoski

As discussed above, claim 56 is directed to a method comprising, in part, “comparing [a] library digital image and [an] outside digital image, wherein the text description associated with the library digital image most similar to the outside digital image is selected to become associated with the outside digital image to form a medical record.”

As also discussed above, Palmer does not teach or suggest the invention of claim 56. Instead, the system in Palmer simply provides for scanning, processing, and storing an image. *See Palmer*, col. 5, l. 49 – col. 7, l. 53 and Fig. 4. Nowhere does Palmer teach or suggest selecting a text description to become associated with an outside digital image.

Prokoski fails to remedy the deficiencies of Palmer. That is, Prokoski fails to teach or suggest selecting a text description to become associated with an outside digital image. Instead, as discussed above, Prokoski discloses an imaging device that produces “a first signal representative of sensed characteristics of [an] individual and a minutiae generator which receives the first signal and produces a second signal representative of minutiae of the individual,” and subsequently produces “a third signal representative of the characteristics which is stored in a minutiae database for each of the plurality of known individuals.” *See Prokoski*,

Abstract. Nowhere does Prokoski teach or suggest selecting a text description to become associated with an outside digital image.

As such, the combination of Palmer and Prokoski fails to teach or suggest the invention of claim 56. That is, the combination does not teach or suggest selecting a text description to become associated with an outside digital image.

Thus, neither Palmer nor Prokoski, alone or in combination, teach or suggest the invention of claim 56.

Independent Claim 75 Is Not Unpatentable Over Palmer in View of Prokoski

As discussed above, claim 75 is directed to a method comprising, in part, “comparing [an] outside image to . . . groups of library images, selecting an image or group of images from the library images that are most similar to the outside image, selecting the library text corresponding to the portion of the procedure corresponding with the selected library image, and storing the selected library text with the outside image to create a record.”

As also discussed above, Palmer does not teach or suggest the invention of claim 75. Instead, the system in Palmer simply provides for scanning, processing, and storing an image. *See Palmer*, col. 5, l. 49 – col. 7, l. 53 and Fig. 4. Nowhere does Palmer teach or suggest selecting a library text corresponding to the portion of the procedure corresponding with the selected library image and storing the selected library text with the outside image to create a record.

Prokoski fails to remedy the deficiencies of Palmer. That is, Prokoski fails to teach or suggest selecting a library text corresponding to the portion of the procedure corresponding with the selected library image and storing the selected library text with the outside image to create a record. Instead, as discussed above, Prokoski discloses an imaging device that produces “a first signal representative of sensed characteristics of [an] individual and a minutiae generator which receives the first signal and produces a second signal representative of minutiae of the individual,” and subsequently produces “a third signal representative of the characteristics which is stored in a minutiae database for each of the plurality of known individuals.” *See Prokoski*, Abstract. Nowhere does Prokoski teach or suggest selecting a library text corresponding to the portion of the procedure corresponding with the selected library image and storing the selected library text with the outside image to create a record.

As such, the combination of Palmer and Prokoski fails to teach or suggest the invention of claim 75. That is, the combination does not teach or suggest selecting a library text corresponding to the portion of the procedure corresponding with the selected library image and storing the selected library text with the outside image to create a record.

Thus, neither Palmer nor Prokoski, alone or in combination, teach or suggest the invention of claim 75.

Independent Claim 81 Is Not Unpatentable Over Palmer in View of Prokoski

As discussed above, claim 81 is directed to a method comprising, in part, “comparing [a] new image to . . . stored images using digital image recognition to identify the one or more stored images that are most similar to the new image, and when the most similar one or more stored images are identified, associating with the new image the stored text associated with the identified stored image.”

As also discussed above, Palmer does not teach or suggest the invention of claim 81. Instead, the system in Palmer simply provides for scanning, processing, and storing an image. *See Palmer*, col. 5, l. 49 – col. 7, l. 53 and Fig. 4. Nowhere does Palmer teach or suggest associating stored text with a new image.

Prokoski fails to remedy the deficiencies of Palmer. That is, Prokoski fails to teach or suggest associating stored text with a new image. Instead, as discussed above, Prokoski discloses an imaging device that produces “a first signal representative of sensed characteristics of [an] individual and a minutiae generator which receives the first signal and produces a second signal representative of minutiae of the individual,” and subsequently produces “a third signal representative of the characteristics which is stored in a minutiae database for each of the plurality of known individuals.” *See Prokoski*, Abstract. Nowhere does Prokoski teach or suggest associating stored text with a new image.

As such, the combination of Palmer and Prokoski fails to teach or suggest the invention of claim 81. That is, the combination does not teach or suggest associating stored text with a new image.

Thus, neither Palmer nor Prokoski, alone or in combination, teach or suggest the invention of claim 81.

Claims Depending from the Above Independent Claims Are Patentable

Because claims 44-46, 48-50, 52-55, 57-58, 76-80, and 82-83 depend directly or indirectly from one of the above independent claims and incorporate all the limitations of those claims, the above arguments obviate the bases for these grounds of rejection. Thus, claims 44-46, 48-50, 52-55, 57-58, 76-80, and 82-83 are not unpatentable over Palmer in view of Prokoski. Reconsideration and withdrawal of the rejections are respectfully requested.

CONCLUSION

Applicant respectfully submits that claims 43-58 and 75-83 are in condition for allowance. Reconsideration and a Notice of Allowance for all pending claims are respectfully requested.

This response is being submitted on or before November 5, 2006, with a Petition for a Three Month Extension of Time, and the required fees, making this a timely response. It is believed that no additional fees are due in connection with this filing. However, the Commissioner is authorized to charge any additional fees, including extension fees or other relief which may be required, or credit any overpayment, to Deposit Account No. 04-1420.

Respectfully submitted,

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